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June 21, 2024

VIA ECF

Hon. Philip M. Halpern
 U.S. District Court of the Southern District of New York
 300 Quarropas Street
 White Plains, NY 10601

Re: *Soudani v. Soudani*, Case No. 23-cv-9905(PMH)(AEK) (S.D.N.Y.)

Your Honor:

We represent Plaintiff and Counterclaim-Defendant Eman Soudani (“Plaintiff”) and write with respect to the Motion for Clarification on Propriety of Confidential Designation under Protective Order filed on June 13, 2024 (the “Motion”) (ECF Nos. 58-63). The Motion was filed to clarify our ability to address the important and time-sensitive issues referenced therein.

Under Local Civil Rule 6.1(a), opposing affidavits and/or memoranda of law to the Motion were due seven days after service of the Motion, i.e., by June 20, 2024. Plaintiff’s reply, if any, would be due two days after service of the answering papers, i.e., by June 24, 2024, if a responsive filing were made (given that the second day following June 20 is a Saturday).

Defendant did not file an opposing affidavit and/or memorandum of law within seven days after service of the Motion.

On June 16, 2024, one day after Plaintiff filed her Motion, Defendant filed a reply to Plaintiff’s answer to his Motion to Quash a subpoena (ECF No. 64). Defendant’s reply addressed the topic of the confidentiality designation raised in Plaintiff’s Motion.

We submit that Defendant, having failed to reply to the Motion, or to seek additional time to respond, has waived his right to do so. *In re Dreamtex, Inc.*, No. 22-cv-9248(VM), 2023

U.S.Dist.LEXIS 149516, at *3-4 (S.D.N.Y. Aug. 22, 2023) (finding that Respondent waived an issue because it failed to oppose the Plaintiff's requested relief) (citing *Arista Records, LLC v. Tkach*, 122 F.Supp.3d 32, 38-39 (noting that where a party fails to oppose a particular argument it is deemed waived)).

If, on the other hand, Defendant's reply to Plaintiff's answer to his Motion to Quash is deemed to constitute his response to the Motion, Plaintiff writes here to clarify that she does not seek an opportunity to reply or more time to do so, and to submit respectfully that the issue is fully briefed.

Sincerely,



Arthur D. Middlemiss

CC: All parties of record (via ECF)